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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/071,697

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Andre D. Cropper

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2090

7590

07/19/2006

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EXAMINER

TUROCZY, DAVID P

ART UNIT

PAPER NUMBER

1762

DATE MAILED: 07/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/071,697	Applicant(s) CROPPER ET AL	
	Examiner David Turocy	Art Unit 1762	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 11 May 2006.
- 2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) 2,5,6 and 9-11 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3,4,7 and 8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>5/5/03, 2/8/02</u> | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Election/Restrictions*

1. Claim 10 is withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 5/11/2006.

Additionally the examiner notes the election of spin coating a resistive polymer, and active matrix polymer and therefore claims 2, 5-6, 9, 11 are also withdrawn due to the species election.

### *Drawings*

2. The drawings filed on 2/8/2002 are objected to because (1) the words, lines, and reference numbers in Figures 1 and 2 are hand-written and unclear (i.e., the lines are not all sufficiently uniform and well-defined, as required by 37 CFR 1.84(l)). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application

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must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claim 1 is rejected under 35 U.S.C. 102(e) as being anticipated by US Patent 6814642 by Siwinski et al., hereafter '642.

The applied reference has a common assignee and inventor with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131.

'642 teaches a method for forming a OLED and touch screen, wherein the OLED is sensitive to high temperature and the touch screen includes a resistive film (abstract, figure 8). '642 discloses providing a transparent substrate, forming a flat panel OLED display on one side of the substrate and forming a resistive film using a low temperature technique on the other side of the substrate and forming a resistive touch screen on the resistive film (Column 5, lines 5-25, column 1, lines 45-61, figure 8, figure 2a).

5. Claims 1 and 8 are rejected under 35 U.S.C. 102(e) as being anticipated by US Patent 6424094 by Feldman et al., hereafter '094.

The applied reference has a common assignee and inventor with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131.

'094 teaches a method for forming a OLED and touch screen, wherein the OLED is sensitive to high temperature and the touch screen includes a resistive film (abstract, Column 3, lines 5-15, Column 4, line 59-Column 5, line 12). '094 discloses providing a transparent substrate, forming a flat panel OLED display on one side of the substrate and forming a resistive film using a low temperature technique on the other side of the

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substrate and forming a resistive touch screen on the resistive film (abstract, Column 3, lines 5-15, Column 4, line 59-Column 5, line 12, column 7, line 15, Column 11-Column 12).

Claim 8: '094 discloses an active matrix OLED (Column 2, lines 34-60).

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

8. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 6982432 by Umemoto et al, hereafter '432 in view of US Patent Publication 2001/0046604 by Geaghan, hereafter '604.

'432 teaches a method for forming an integrated LCD and touch screen, wherein the touch screen includes a resistive film (figures, abstract). '432 discloses providing a transparent substrate, forming a LCD display (3a) on one side of the substrate and forming a resistive film (41) using a low temperature technique on the other side of the substrate and forming a resistive touch screen (4) on the resistive film (abstract, figures, Column 2, line 57-Column 3, line 40, Column 6, lines 15-20, column 7, lines 20-25).

'432 discloses forming a integrated display device with a resistive touch screen and a LCD, but fails to disclose using a OLED film. However, '604 discloses combining touch screens with a number of display devices, including LCD, CRT OLED, and plasma (0045). Therefore, taking the references collectively, it would have been obvious to one of ordinary skill in the art to form a OLED in the process of '432 with a reasonable expectation of success because '604 discloses touch screens are known to be used with OLEDs. The prior art can be modified or combined to reject claims as prima facie obvious as long as there is a reasonable expectation of success. *In re Merck & Co., Inc.*, 800 F.2d 1091, 231 USPQ 375.

9. Claims 3-4 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over '432 in view of '604 as applied to claim 1 above, and further in view of US Patent 6534200 by Heuer et al., hereafter '200.

'432 in view of '604 teach all the limitations of these claims as discussed above in the 35 USC 103(a) rejection and '432 also disclose forming the resistive film by

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sputtering ITO, however, the references fail to teach applying a resistive polythiophene by spin coating.

US Patent 6534200 discloses polythiophene deposited by spin coating is a known equivalent for ITO used as transparent electrode films (Column 22, lines 1-15). Substitution of equivalents requires no express motivation. *In re Fount*, 213 USPQ 532 (CCPA 1982); *In re Siebentritt* 152, USPQ (CCPA 1967).

Alternatively, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify '432 in view of '604 to use a polythiophene deposited by spin coating as a transparent electrode with a reasonable expectation of success because '200 discloses polythiophene deposited by spin coating is a known and suitable electrode material for display devices and the selection of something based on its known suitability for its intended use has been held to support a *prima facie* case of obviousness. *Sinclair & Carroll Co. v. Interchemical Corp.*, 325 U.S. 327, 65 USPQ 297 (1945).

### ***Double Patenting***

10. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422



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F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

11. Claims 1 and 8 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-4, 6, 10-13 of U.S. Patent No. 6623608. Although the conflicting claims are not identical, they are not patentably distinct from each other because while the claims are not identical in scope the claims of the US Patent encompass claims 1 and 8 of the instant application.

12. Claims 3-4 and 7 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-4, 6, 10-13 of U.S. Patent No. 6623608 in view of US Patent 6534200 by Heuer et al. Claims 1-4, 6, 10-13 of U.S. Patent No. 6623608 disclose a method for forming a integrated touch screen providing a transparent substrate and forming an OLED film on one side of the substrate and forming a resistive film and a touch screen on the other side, wherein the resistive touch screen is formed of ITO. However, U.S. Patent No. 6623608 fails to teach applying a resistive polythiophene by spin coating, however, US Patent 6534200 discloses polythiophene deposited by spin coating is a known equivalent for ITO used as transparent films (Column 22, lines 1-15). Substitution of equivalents requires no

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express motivation. *In re Fount*, 213 USPQ 532 (CCPA 1982); *In re Siebentritt* 152, USPQ (CCPA 1967).

### ***Conclusion***


Any inquiry concerning this communication or earlier communications from the examiner should be directed to David Turocy whose telephone number is (571) 272-2940. The examiner can normally be reached on Monday-Friday 8:30-6:00, No 2nd Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Timothy Meeks can be reached on (571) 272-1423. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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AU 1762

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TIMOTHY MEEKS  
SUPERVISORY PATENT EXAMINER